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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,341	11/14/2003	Shiro Iwasaki	2003_1644A	1177
513	7590	01/28/2008	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P.			TEKLE, DANIEL T	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/712,341	IWASAKI ET AL.
	Examiner	Art Unit
	Daniel Tekle	2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 31 October 2007.  
 2a) This action is FINAL. 2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-42 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-42 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## DETEALED ACTION

### *Response to Argument*

Applicant's arguments filed October 31, 2007 have been fully considered but they are not persuasive.

Applicant argues on page 3 second paragraph of the remark, "Higashida does not disclose or suggest that recovery data is interleaved with AV data during the recording of AV data".

In response the examiner respectfully disagrees. Higashida et al. teaches MPEG2 transport steam and transport packet (**column 7 lines 59-65**). It is well known to one ordinary skill in the art, that during recording MPEG2 management carries transport packet header and transport packet payload. Therefore the "recording the recovery data while interleaving the recovery data" means anticipated the reference of recording MPEG2 transport stream as a hall reading to the reference.

### *Claim Rejections - 35 USC § 102*

(The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-4, 6-19, 21-25 and 27-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Higashida et al. (**US 6,862,401**).

**Regarding Claim 1:** Higashida et al. discloses a recording apparatus for recording to a recording medium AV data containing at least one of audio data and video data, and recovery data for restoring management information for the AV data when AV data recording did not end normally, comprising: means for generating recovery data for each constant or variable period (**column 2 lines 35-43**); means for generating AV data (**column 2 lines 35-43**); and a recording means for recording the recovery data while interleaving the recovery data with the AV data during AV data recording (**column 2 lines 35-43**).

**Regarding Claim 2:** Higashida et al. discloses a recording apparatus as described in claim 1, wherein the recovery data contains recording address information for the recorded AV data (**column 7 lines 40-50**).

**Regarding Claim 3:** Higashida et al. discloses a recording apparatus as described in claim 1, wherein the recovery data contains file management information for the recorded AV data (**columns 2 lines 35-55**).

**Regarding Claim 4:** Higashida et al. discloses a recording apparatus as described in claim 1, wherein the recovery data contains playback time information for the recorded AV data (**column 7 lines 40-50**).

**Regarding Claim 6:** Higashida et al. discloses a recording apparatus as described in claim 1, wherein the recovery data contains a serial number or time information (**column 7 lines 40-50**).

**Regarding Claim 7:** Higashida et al. discloses a recording apparatus as described in claim 1, wherein the recovery data contains address information for previously recorded recovery data **(column 7 lines 40-50).**

**Regarding Claim 8:** Higashida et al. discloses a recording apparatus as described in claim 1, wherein the recovery data contains difference information from previously recorded recovery data **(column 7 lines 40-50).**

**Regarding Claim 9:** Higashida et al. disclose a recording apparatus as described in claim 1, wherein the recovery data contains information acquired for previously recorded recovery data **(column 7 lines 40-50).**

**Regarding Claim 10:** Higashida et al. disclose a recording apparatus as described in claim 1, wherein the recovery data contains address information for recovery data recorded next **(column 11 lines 49-56).**

**Regarding Claim 11:** Higashida et al. discloses a recording apparatus as described in claim 1, wherein the recovery data contains identification information for identifying recovery data **(column 7 lines 40-50).**

**Regarding Claim 12:** Higashida et al. disclose a recording apparatus as described in claim 1, wherein the recovery data is interleaved with AV data units of a specific size **(column 8 lines 10-21).**

**Regarding Claim 13:** Higashida et al. discloses a recording apparatus as described in claim 1, wherein the recovery data is interleaved with AV data units of a specific recording time **(column 8 lines 10-21).**

**Regarding Claim 14:** Higashida et al. discloses a recording apparatus as described in claim 1, wherein the recovery data is interleaved every specific recording unit of AV data (**column 7 lines 40-50**).

**Regarding Claim 15:** Higashida et al. discloses a recording apparatus as described in claim 1, further comprising means for storing in a predefined location recovery data address information denoting an address of the recovery data (**column 7 lines 40-50**).

**Regarding Claim 16:** Higashida et al. disclose a recording apparatus as described in claim 15, wherein the predefined location is a location provided on the recording medium (**column 2 lines 35-55 and column 7 lines 40-50**).

**Regarding Claim 17:** Higashida et al. discloses a recording apparatus as described in claim 16, wherein the location provided on the recording medium is a specified location on the recording medium comprising one or multiple banks (**column 6 lines 60-65**).

**Regarding Claim 18:** Higashida et al. disclose a recording apparatus as described in claim 16, wherein the location provided on the recording medium is one or multiple specific files on the recording medium (**column 6 lines 60-65**).

**Regarding Claim 19:** Higashida et al. discloses a recording apparatus as described in claim 15, wherein a recording member separate from the recording medium is provided (see elements of 28 and 9 of figure 6.), and the predefined location is a location provided in the recording member (**column 7 lines 40-50**).

**Regarding Claim 21:** Higashida et al. discloses a recording apparatus as described in claim 15, wherein the recovery data address information is a serial number or time information for the recovery data (**column 7 lines 40-50**).

**Regarding Claims 22-42:** Claims 22-25 and 27-42 are rejected for the same subject matter as claims 1-4 and 6-21 respectively.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5, 20 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higashida et al. (**US 6,862,401**).

**Regarding Claims 5 and 26:** Higashida et al. discloses all the claim limitation of claim 1, include the AV data is MPEG-encoded data (**column 2 lines 60-67**), except it did not point out the recovery data contains a start address for an I-picture in the recorded AV data; however it is well known in the art that MPEG standard has header to identify I-picture and therefore an official Notice is taken.

It would have been obvious to one ordinary skill in the art at the time of the invention to incorporated the well known of I-picture header into Higashida et al. reference in order to accurately decode the compress video signal using the I-picture header.

**Regarding Claim 20:** Higashida et al. discloses all the claim limitation of claim 19, except the recording member is removably disposed; however the well know art of recording member is build from a plurality of circuit element or service; therefore an Official Notice is taken.

It would have been obvious to one ordinary skill in the art at the time of the invention to incorporate the well known of recording member is removably disposed into Higashida et al. in order to easily fix it or replaced of the recording member.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Tekle whose telephone number is 571-270-1117. The examiner can normally be reached on 7:30am to 5:00pm M-R and 7:30-4:00 Every other F..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Marsha D. Banks-Harold*  
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